

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	<b><u>ORDER REGULATING</u></b>
	:	<b><u>MOTION PRACTICE AND</u></b>
-against-	:	<b><u>RECORD PROCEDURES</u></b>
	:	
U.S. DEPARTMENT OF HEALTH AND HUMAN	:	20 Civ. 5583 (AKH)
SERVICES, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

On September 10, 2020, Plaintiffs filed a motion for partial summary judgment with respect to Plaintiffs' three claims for relief under the Administrative Procedure Act, 5 U.S.C. § 706, *et seq.* ("APA"), but not with respect to Plaintiffs' due process claim. *See* ECF No. 62. On September 18, 2020, Defendants filed a motion to stay briefing on the motion for partial summary judgment, or in the alternative, to consolidate briefing and set a briefing schedule. *See* ECF No. 88. Plaintiffs oppose Defendants' motion. *See* ECF No. 91.

Having considered the parties' submissions, the Court hereby orders as follows:

1. As the administrative record in this case has yet to be compiled, Plaintiffs' motion for partial summary judgment, *see* ECF No. 62, is premature.  
Accordingly, the motion for partial summary judgment is dismissed without prejudice.
2. On or before October 16, 2020, Defendants' shall file with the Court and opposing counsel the relevant administrative record pertaining to Plaintiffs' claims under the APA. *See* ECF No 1. Thereafter, Plaintiffs shall have until

October 26, 2020 to comment or otherwise object as to the adequacy, accuracy, or comprehensiveness of the administrative record.

3. The parties shall appear for a telephonic status conference on October 29, 2020, at 11:00 a.m. to regulate further motion practice and address objections, modifications, or other applications regarding the adequacy, accuracy, and comprehensiveness of the administrative record produced by Defendants.
4. Defendants' time to answer or respond to the Complaint, *see* ECF No. 1, is hereby extended to a time to be determined by the Court during the October 29, 2020 status conference.
5. Defendants' motion to stay briefing with respect to Plaintiffs' motion for partial summary judgment, *see* ECF No. 88, is denied as moot.
6. The Clerk is directed to close the open motions at ECF Nos. 62 and 88.

SO ORDERED.

Dated: September 22, 2020  
New York, New York

/s/ Alvin K. Hellerstein  
ALVIN K. HELLERSTEIN  
United States District Judge